

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 15-1074V
(not to be published)

MELANIE MOBLEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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Special Master Corcoran

Filed: May 24, 2017

Decision; Attorney's Fees and Costs.

John Robert Howie, Howie Law, PC, Dallas, TX, for Petitioner.

Lisa Ann Watts, U. S. Dep't of Justice, Washington, DC, for Respondent.

DECISION GRANTING ATTORNEY'S FEES AND COSTS¹

On September 25, 2015, Melanie Mobley filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the "Vaccine Program"), alleging that she suffers from Guillain-Barré syndrome as a result of her October 2, 2012 receipt of the influenza vaccine.² The parties eventually filed a stipulation for damages on April 26, 2017 (ECF No. 41), which I adopted as my decision on damages the same day. ECF No. 42.

¹ This Decision has been designated "not to be published," which means I am not directing it to be posted on the Court of Federal Claims's website. However, it will nevertheless be posted in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public in its present form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) ("Vaccine Act" or "the Act"). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Petitioner has now filed a motion requesting final attorney's fees and costs, dated May 18, 2017. *See* ECF No. 46. Petitioner requests reimbursement of attorney's fees and costs in the combined amount of \$54,314.50 (\$51,176.00 in attorney's fees and \$3,138.50 in costs). *Id.* at 1. In accordance with General Order No. 9, Petitioner represents that she did not incur any litigation expenses in conjunction with this proceeding. *Id.* at 2. Respondent filed a document reacting to the fees request on May 22, 2017, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring to my discretion the determination of the amount to be awarded. ECF No. 47 at 2.

As a successful Vaccine Program Petitioner, Ms. Mobley is entitled to a fees and costs award. I have previously found that Petitioner's present counsel—John Robert Howie Esq.—is entitled to forum rates. *See Chanderdat v. Sec'y of Health & Human Servs.*, No. 15-341V, 2016 WL 3571717 (Fed Cl. Spec. Mstr. June 3, 2016). The rate I awarded in *Chanderdat* for Mr. Howie is the same as requested here, and I will likewise award it. *Id.* In addition, the hours expended on this matter appear to be reasonable. Finally, the requested litigation costs appear to be reasonable, and will also be awarded.

I hereby GRANT Petitioner's motion for attorney's fees and costs. Accordingly, an award of \$54,314.50 should be made in the form of a check payable jointly to Petitioner and Petitioner's counsel, John Robert Howie, Esq. Payment of this amount represents all attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of this decision.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment if (jointly or separately) they file notices renouncing their right to seek review.